

REMARKS

Double patenting

A terminal disclaimer is being submitted herewith directed towards co-pending application 11304722. The double patent rejection is thereby believed obviated.

Claim rejection 35 USC §102/§103

Claim 1-8, 10-13 are rejected as anticipated by, or in the alternative as obvious over, Phillipou et al for the reasons of record.

The examiner's attention is brought to the fact that the claims in co-pending application 11304722, for which a Terminal Disclaimer has now been filed, have also been rejected over Phillipou. That application is currently under examination by examiner Irina Sopja Zemel in Group Art Unit 1796. Therein examiner Zemel argues, just as the current examiner, that wood chips sprayed with the adhesive of Phillipou would inherently result in a degree of impregnation of the FA mixture.

In the most recent Office Action in the co-pending application, examiner Zemel appears to indicate that impregnating a wood piece by submerged it in the impregnation mixture under pressure would necessarily result in a product having materially different properties (for example degree of penetration) than wood chips that are merely surface treated with an adhesive as taught by Phillipou, provided that specific parameters were claimed. Amendments of that nature are intended to be filed in the co-pending application in due course.

The applicant is therefore also amending the current application to include the specific limitations of submerging the wood piece in the mixture and applying a pressure of from 1-10 bar. New dependent claims are being added further limiting the pressure parameters to from 5-10 bar.

With regards to method claim 3, these limitations are not disclosed by Phillipou, and are believed non-obvious in light of Phillipou's teachings. Since Phillipou is only concerned with a surface adhesive, there would be no motivation to apply the adhesive under pressure. In fact, submerging the wood chips of Phillipou under pressure as now claimed would make the adhesive of Phillipou inoperative for its intended purpose, due to the resulting degree of saturation. With regard to the product-by-process claim 1, it is respectfully submitted that the added claim features would necessarily result in a product having materially different properties than Phillipou. It is not necessary in a product-by-process claim to numerically define such differences. The applicant must merely demonstrate that the claimed product would be materially different than the prior art. Here the claimed submersion and application of pressure would necessarily and inevitably result in a different product than that disclosed in Phillipou

Conclusion

For the reasons discussed above, favourable reconsideration is solicited.

Respectfully submitted,



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